

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ELLIOTT W. O'BRIAN,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 23-CV-122-SMY
)	
COMMISSIONER OF SOCIAL)	
SECURITY,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

YANDLE, District Judge:

Pursuant to 42 U.S.C. § 405(g), Plaintiff Elliott W. O'Brian seeks judicial review of a final decision by the Commissioner of the United States Social Security Administration denying his claim for social security benefits (Doc. 1). Now pending before the Court is O'Brian's motion for leave to proceed *in forma pauperis* ("IFP"), without prepaying the filing fee (Doc. 2).

28 U.S.C. § 1915 authorizes a federal district court to allow an indigent plaintiff to proceed in a civil action without prepaying the filing fees if the plaintiff submits an affidavit of poverty stating that he or she is unable to afford the fees. 28 U.S.C. § 1915(a)(1). The statute also requires the Court to scrutinize the Complaint filed by an indigent plaintiff and to dismiss it if (a) the allegation of poverty is untrue, (b) the action is frivolous or malicious, (c) the action fails to state a claim upon which relief can be granted, or (d) the action seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

O'Brian has submitted an affidavit indicating that he has no income and very little savings (Doc. 2). Based on this information, the Court is satisfied that O'Brian is indigent within the meaning of § 1915(a)(1) and that the \$400.00 filing fee would present a significant hardship on

him. Further, the Court does not find the claims asserted in the Complaint to be frivolous. Accordingly, O'Brian's Motion to Proceed *in forma pauperis* without prepayment of fees or costs (Doc. 2) is **GRANTED**.

O'Brian is represented by counsel: Traci L. Severs of Manchester, Missouri. Therefore, the Court leaves to Counsel the responsibility of accomplishing service of process. If Ms. Severs believes that 28 U.S.C. § 1915(d) or Federal Rule of Civil Procedure 4(c)(3) requires the United States Marshal to serve process in this case, she should immediately file a motion with the Court.

IT IS SO ORDERED.

DATED: February 27, 2023



STACI M. YANDLE
United States District Judge